

**Jones & Associates**  
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New York, NY 10020  
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August 13, 2010

BY FEDERAL EXPRESS and ECF:

**Honorable Morris Stern**  
United States Bankruptcy Judge  
50 Walnut Street 3rd Fl.  
Newark, NJ 07102

**Re: Edward P. Bond as Liquidating Trustee v. Euroboard Enterprises, Inc. AP 08-02746-MS**

Dear Judge Stern:

This firm is counsel to the defendant Euroboard Enterprises, Inc. (the "Defendant") in the above-referenced action.

Pursuant to the District of New Jersey's Local Civil Rule 37.1(a)(1) as made applicable by Local Bankruptcy Rule 7026-1, we write to request a pre-motion conference.

The issue to be presented is the plaintiff's failure to participate in discovery as characterized by the plaintiff's failure to serve responses to the Defendant's First Request for Production, Interrogatories and Requests for Admissions.

On November 28, 2009, the Defendant served its First Request for Production, Interrogatories and Requests for Admissions.

On March 8, 2010, the Defendant sent a letter, by electronic mail and regular mail, to counsel of record, Nancy A. Washington reminding her of the plaintiff's lack of responses to the Defendant's discovery requests and of the plaintiff's failure to serve discovery. The Defendant also informed her of its intention to resort to a motion to compel. Please see attached Exhibit A.

On May 10, 2010, the Defendant sent yet another letter, dated May 7, by electronic mail to counsel of the plaintiff reiterating the Defendant's requests for responses to its discovery demands and of its intention to resort to a motion to compel. Please see attached Exhibit B.

More than thirty (30) days have passed since the date of service of the Defendant's Requests for Admissions and other discovery requests.

To date, the Defendant has received no responses to the Requests for Admissions or other discovery requests.

Under Rule 36 of the Federal Rules of Civil Procedure, incorporated by Rule 7036 of the Federal Rules of Bankruptcy Procedure, if a party fails to serve written answers to a request for admissions, the matter is deemed admitted.

Accordingly, the Defendant respectfully requests leave to file a motion to compel the Plaintiff to respond to the Defendant's discovery requests and to deem Requests for Admissions as admitted.

If any additional information would be helpful to the Court, please let us know.

Respectfully,

**JONES & ASSOCIATES**

/s/Roland Gary Jones – PRIMARY COUNSEL

Roland Gary Jones (RGJ-6902)

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-and-

/s/ Geraldene Sherr Duswalt

Geraldene Sherr Duswalt

1299 Knollwood Road

Mountainside, NJ 07092

(908) 654-3948

*Attorneys for the Defendant*

*Euroboard Enterprises, Inc.*

**TO:**

**Nancy A. Washington**

Saiber LLC

18 Columbia Turnpike

Suite 200

Florham Park, NJ 07932

(973) 622-3333

Fax : (973) 973-622-3349

Email: naw@saiber.com

**EXHIBIT A**

**ROLAND GARY JONES, ESQ. LLC**  
**1230 6TH AVENUE 7<sup>TH</sup> FLOOR**  
**NEW YORK, NY 10020**  
TEL. (646) 964-6461 FAX (212) 202-4416

March 8, 2010

BY ELECTRONIC MAIL:

**Nancy A. Washington**

Saiber LLC  
18 Columbia Turnpike  
Suite 200  
Florham Park, NJ 07932  
(973) 622-3333  
Fax : (973) 973-622-3349  
Email: naw@saiber.com

**Re: Bond v. Euroboard Enterprises, Inc. AP 08-02746-MS**

Dear Ms. Washington:

We represent Euroboard Enterprises, Inc., the defendant in the above-referenced Adversary Proceeding. This correspondence concerns your lack of responses to the Defendant's First Set of Document Requests and Interrogatories served upon your firm and upon Lowenstein Sandler PC on November 28, 2009.

The Defendant wishes to avoid the necessity of filing a motion to compel; therefore, to resolve this matter, the Defendant expects Plaintiff to respond to its Documents Requests and Interrogatories by within five (5) days of receipt of this correspondence.

The Defendant, in particular, requires detailed responses to the following document requests and interrogatories:

1. Request for Production No. 4 asks for documents supporting the Plaintiff's Complaint. Defendant requests that any and all documents discovered related to this Request be produced.
2. Request for Production No. 13 asks for documents supporting the allegation that the Debtor was insolvent at the time of the Transfers. Defendant requests that any and all documents discovered related to this Request be produced.
3. Request for Production No. 15, 19 and 20 asks for documents pertaining to the Debtor's books, records and finances one year prior to the bankruptcy filing. Defendant may seek to dispute the presumption insolvency and, in order to do so, requests that documents responsive to these Requests be produced.
4. Interrogatory Nos. 1 to 4 requests that the Plaintiff identify persons with knowledge about the circumstances surrounding this adversary proceeding. The Defendant may

seek to depose these persons and, in order to do so, requests that these persons be identified by the Plaintiff.

5. Interrogatory No. 21 requests that Plaintiff identify the percentage the Defendant would receive. To this end, Defendant requests that a more detailed answer to this Interrogatory be provided by the Plaintiff

As stated above, Defendant wishes to resolve this matter without resorting to motion filing with the Court. Please produce information and/or document fully responsive to the discovery requests addressed within five (5) days of receipt of this correspondence.

Defendant reserves the right to raise additional issues relating to Plaintiff's discovery responses.

Sincerely,

BY: /s/Roland Gary Jones  
Roland Gary Jones (RGJ-6902)  
1230 6th Avenue 7<sup>th</sup> Floor  
New York, NY 10020  
Tel. (646) 964-6461  
Fax (212) 202-4416  
E-mail: [rgj@rolandjones.com](mailto:rgj@rolandjones.com)

**EXHIBIT B**

**Roland Gary Jones, Esq. LLC**

**1230 6th Avenue 7<sup>th</sup> Floor**

**New York, NY 10020**

Tel. (646) 964-6461 Fax (212) 202-4416

May 7, 2010

BY ELECTRONIC MAIL:

**Nancy A. Washington**

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Email: naw@saiber.com

**Re: Edward P. Bond as Liquidating Trustee v. Euroboard Enterprises, Inc. AP 08-02746-MS**

Dear Ms. Washington:

Pursuant to the District of New Jersey's Local Civil Rule 37.1(a)(1) as made applicable by Local Bankruptcy Rule 7026-1, we request a teleconference with you in a good faith effort to resolve by agreement Liquidating Trustee Edward P. Bond's (the "Plaintiff") failure to cooperate with discovery. The Plaintiff has provided no responses to Euroboard Enterprises' (the "Defendant") requests for production, interrogatories and requests for admissions. The Plaintiff has also failed to serve discovery demands on the Defendant. A letter addressing these same issues was sent to your office via electronic mail and regular mail on March 8, 2010 and we did not receive a response.

The Defendant, in particular, requires detailed responses to the following document requests and interrogatories:

1. Request for Production No. 4 asks for documents supporting the Plaintiff's Complaint. Defendant requests that any and all documents discovered related to this Request be produced.
2. Request for Production No. 13 asks for documents supporting the allegation that the Debtor was insolvent at the time of the Transfers. Defendant requests that any and all documents discovered related to this Request be produced.
3. Request for Production No. 15, 19 and 20 asks for documents pertaining to the Debtor's books, records and finances one year prior to the bankruptcy filing. Defendant may seek to dispute the presumption insolvency and, in order to do so, requests that documents responsive to these Requests be produced.
4. Interrogatory Nos. 1 to 4 requests that the Plaintiff identify persons with knowledge about the circumstances surrounding this adversary proceeding. The Defendant may

seek to depose these persons and, in order to do so, requests that these persons be identified by the Plaintiff.

5. Interrogatory No. 21 requests that Plaintiff identify the percentage the Defendant would receive. To this end, Defendant requests that a more detailed answer to this Interrogatory be provided by the Plaintiff

As previously stated in the March 8 letter, the Defendant wishes to resolve this matter without resorting to motion filing with the Court.

We propose that we hold the teleconference on Tuesday, May 11, 2010 at 1:30 p.m. EDT. If we are unable to resolve these deficiencies of the Plaintiff, the Defendant will seek appropriate relief from the Court.

Sincerely,  
BY: /s/Roland Gary Jones  
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1230 6th Avenue 7<sup>th</sup> Floor  
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